

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 2/28/2020

EFT SERVICES LLC, et al.,

Plaintiffs,

-v-

I-POS SYSTEMS LLC, et al.,

Defendants.

20 Civ. 1757 (JGK)

ORDER

PAUL A. ENGELMAYER, District Judge:

This matter was opened on February 27, 2020 and assigned to the Honorable John G. Koeltl. On February 28, 2020, the undersigned, sitting as the Part 1 emergency judge, issued a Temporary Restraining Order (“TRO”) in this matter. Dkt. 3. **A copy is attached to this order.** At this time, counsel for plaintiffs has entered an appearance, while counsel for defendants has not.

The Court is in receipt of a letter from plaintiffs’ counsel, in which counsel represents that defendants “have advised Plaintiffs that Defendants will not comply with” the TRO “until they have obtained an opinion of counsel that the TRO is ‘legitimate.’” Dkt. 4.

For avoidance of doubt, the TRO issued this morning is a **federal court order**. Failure to comply with its terms could result in severe sanctions, including for contempt of court. Defendants are legally obliged to comply with this order. The Court encourages defendants to retain counsel in this matter, but regardless, the order is valid and must be complied with in full unless and until this Court has modified or withdrawn it.

Counsel for plaintiffs is ordered to serve a copy of this order on defendants forthwith.

SO ORDERED.

A handwritten signature in black ink, reading "Paul A. Engelmayer", written over a horizontal line.

PAUL A. ENGELMAYER  
United States District Judge,  
*Sitting in Part 1*

Dated: February 28, 2020  
New York, New York

Koeltl, J

JUDGE KOELTL

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKEFT Services LLC, and IPN LLC d/b/a  
Paybotic,

Plaintiffs,

v.

i-POS Systems, LLC, d/b/a Dejavoo, and  
DeNovo Systems, LLC

Defendant

20 CV 01757

Civil Action No. \_\_\_\_\_

**ORDER TO SHOW CAUSE FOR  
TEMPORARY RESTRAINING  
ORDER AND PRELIMINARY  
INJUNCTION**

Upon the Declaration of Charles M. Miller dated February 27, 2020, attaching a copy of the Verified Complaint in this action, the Declaration of Randy Nolte, and affixed exhibit, the Declaration of Max Miller, and affixed exhibit, and the accompanying Memorandum of Law, it is:

**ORDERED**, that Defendant i-POS Systems, LLC, d/b/a Dejavoo ("Dejavoo"), or its attorneys, show cause before this Court, at the United States District Court for the Southern District of New York, 500 Pearl Street, New York, New York 10007 on ~~February~~ <sup>March 13, 2020 at 2:30 p.m.</sup> ~~at 9:30 a.m. or as soon thereafter as counsel may be heard~~, why an Order should not be entered pursuant to Rule 65 of the Federal Rules of Civil Procedure:

- (1) Prohibiting Dejavoo from taking or permitting to be taken any action that would in any way interfere with Plaintiffs obtaining the full benefit of the Perpetual Licenses, including but not limited to interfering in any way with the full use of the SLCD Application by any person having access to that application through either Perpetual License as of the date this Order, including but not limited to (1) placing any restrictions on any feature of the SLCD Application, (2) pushing out

system changes in such a manner as to disable EFT and/or Paybotic Terminals, and/or (3) making changes to individual terminal software files without EFT's and/or Paybotic's permission, as applicable;

- (2) Directing Dejavoo and its affiliates to immediately restore all functions of which Plaintiffs have been deprived, including but not limited to (1) Steam administrative access, (2) full technical customer support (phone and email), and (3) access to SPIN requests for ISO and ISV (independent software vendors) to enable Paybotic's ISOs and ISV partners to integrate their software with Dejavoo terminals;
- (3) Prohibiting Dejavoo from representing to any person in any manner that either Perpetual License is no longer in full force and effect; and
- (4) Prohibiting Dejavoo from representing to any person in any manner that Dejavoo has granted One Payment Cloud, LLC ("OPC") or any other third party an exclusive license to the SLCD Application.

**IT IS FURTHER ORDERED** that, sufficient reason having been shown, pending the hearing of EFT's application for a preliminary injunction, pursuant to Rule 65 of the Federal Rules of Civil Procedure, that:

- (1) Prohibiting Dejavoo from taking or permitting to be taken any action that would in any way interfere with Plaintiffs obtaining the full benefit of the Perpetual Licenses, including but not limited to interfering in any way with the full use of the SLCD Application by any person having access to that application through either Perpetual License as of the date this Order, including but not limited to (1) placing any restrictions on any feature of the SLCD Application, (2) pushing out

system changes in such a manner as to disable EFT and/or Paybotic Terminals, and/or (3) making changes to individual terminal software files without EFT's and/or Paybotic's permission, as applicable;

- (2) Directing Dejavoo and its affiliates to immediately restore all functions of which Plaintiffs have been deprived, including but not limited to (1) Steam administrative access, (2) full technical customer support (phone and email), and (3) access to SPIN requests for ISO and ISV (independent software vendors) to enable Paybotic's ISOs and ISV partners to integrate their software with Dejavoo terminals;
- (3) Prohibiting Dejavoo from representing to any person in any manner that either Perpetual License is no longer in full force and effect; and
- (4) Prohibiting Dejavoo from representing to any person in any manner that Dejavoo has granted One Payment Cloud, LLC ("OPC") or any other third party an exclusive license to the SLCD Application.

✓ **IT IS FURTHER ORDERED** that security in the amount of \$ 25,000.00 be

✓ posted by EFT prior to Monday March 2, 2020 at 5:00 p.m. ~~o'clock in the~~

✓ ~~noon~~, of that day; and

It is further ordered that Defendant's brief in opposition is due by March 4, 2020;

Plaintiff's reply brief is due by March 6, 2020; and

**IT IS FURTHER ORDERED** that personal service of a copy of this Order and the annexed Declarations upon EFT, on or before 5:00 p.m. ~~o'clock in the~~ noon, February 28, 2020, by email and Federal Express on Dejavoo or Dejavoo's counsel, if any having appeared in this action, shall be deemed good and sufficient service.

Dated: New York, New York  
February 28, 2020

SO ORDERED

*Paul A. Engelmayer*

UNITED STATES DISTRICT JUDGE

Hon. Paul A. Engelmayer, U.S.D.J.  
Sitting in Part I for Judge *koeltl*